IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 8758 of 2005

Between:

Karani Muktheswara Rao S/o nagabhushnam
R/o Morthota Village, Repalle Mandal, Guntur District

..... PETITIONER

AND

1 The Divisional Engineer, Assessments, Southern Power Distribution Company of A.P.,Ltd.,
Vijayawada, Krishna District
2 The Asst. Divisional Engineer, Operation, Southern Power Distribution Company of A.P.,Ltd., Repalle, Guntur District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction, more particularly one in the nature of Writ of Mandmaus to set aside the impugned proceedings of the 2nd respondent vide Lr. No. ADE.O.RPL. Sub-Er.F-DKt /04-05/D.No. 196/2005 dt 9-3-2005 consequently to restore the electricity supply vide S.C. No. 136 of Morthota Village, Repalle Mandal, Guntur District and pass such other order or orders as this Hon'ble Court may deem fit and proper inthe circumstances of the case.

Counsel for the Petitioner: MR.K.RAMA KOTESWARA RAO

Counsel for the Respondents: (SC FOR AP TRANSCO) V.AJAY KUMAR

The Court at the stage of admission made the following :

ORAL ORDER:

The petitioner seeks a declaration that the proceedings issued by the second

respondent dated 9-3-2005 are illegal and arbitrary and consequentially a direction to the respondents to restore power supply to his service connection.

Today, when the matter came up for hearing, the learned Standing Counsel appearing for the respondents submitted that against the impugned order, though an alternative remedy of appeal is provided under Section 123 of The Electricity Act, 2003, the petitioner, in stead of availing such an alternative remedy, provided under the Act, straight away came to this court with this writ petition and hence the writ petition is not maintainable.

As per Section 126(2) of the Electricity Act, 2003, the order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed.

Under Section 126(3) of the Act, the person on whom a notice has been served under Sub-Section 2 shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who may, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment of the electricity charges payable by such person.

Further, Section 126(4) of the Act contemplates that any person served with the order of provisional assessment, may, accept such assessment and deposit the assessed amount with the licensee within seven days of service of such provisional assessment order upon him.

The contention of the petitioner is that the respondents without following the due process of law, have passed the impugned proceedings.

However, having regard to the submission made by the learned Standing counsel appearing for the respondents that an effective alternative remedy of appeal is available to the petitioner, this writ petition is not maintainable.

However, as submitted by the learned counsel for the petitioner, the time granted either under the provision of law or under the impugned notice, i.e. seven days time had expired. Therefore, a lenient view has to be taken by extending the time to enable the petitioner to file his objections, if any, as contemplated under Section 126 of the Act.

Therefore, two weeks time is granted to the petitioner to file his

objections before the competent authority subject to the condition that the petitioner shall deposit half of the demanded amount within seven days from the date of receipt of a copy of this order and on such deposit, the respondents shall restore power supply to the petitioner unit. However, it is made clear that if the petitioner fails to pay the amount as specified above, the respondents are at liberty to proceed in accordance with law.

With the above directions, the writ petition is disposed of at the stage of admission. No order as to costs.

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kvsn 20-04-2005

To

1 The Divisional Engineer, Assessments, Southern Power Distribution Company of A.P.,Ltd.,
Vijayawada, Krishna District

2 The Asst. Divisional Engineer, Operation, Southern Power Distribution Company of A.P.,Ltd., Repalle, Guntur District

3 Two CD copies.